

Notice of Allowability	Application No.	Applicant(s)	
	10/550,740	WENDEROTH ET AL.	
	Examiner	Art Unit	
	JANE L. STANLEY	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants After Final reply filed 16 April 2009.
2. ☒ The allowed claim(s) is/are 1,5-12,16 and 18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20090417</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|--|--|

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

Response to Arguments

Applicant's after final reply filed 16 April, 2009 has been fully considered and as the proposed amendments place the application in condition for allowance it has been entered. **Claims 1, 5-12, 16 and 18** are pending; **claims 1 and 6** have been amended, **claims 2-4, 13-15 and 17** are cancelled and **claims 5, 7-12, 16 and 18** are as previously presented. Furthermore, in the previous office action, **claim 18** was found to be allowable over the prior art.

The objection to **claim 13** due to informalities is withdrawn as the claim has been canceled.

The 35 U.S.C. 112, second paragraph, rejection of **claim 15** as indefinite is withdrawn as the claim has been canceled.

The 35 U.S.C. 103(a) rejection of **claims 1-13** as unpatentable over Wenderoth et al. (WO 02/08354 A1, using US PGPub 2003/0164470 as English language equivalent) in view of Ashikhmin et al. (SU 1838362 A3, Derwent Abstract) is withdrawn as a result of Applicant's amendments to **claim 1** and further as a result of Applicants arguments which were persuasive.

The 35 U.S.C. 103(a) rejection of **claims 1 and 17** as unpatentable over Wenderoth et al. (WO 02/08354 A1, using US PGPub 2003/0164470 as English language equivalent) in view of Kanai et al. (JP 04279690 A, Derwent Abstract) is withdrawn as a result of Applicant's amendments to **claim 1** and cancellation of **claim 17** and further as a result of Applicants arguments which were persuasive.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Frederick Vastine on 23 April 2009.

The application has been amended as follows:

In claim 6, line 2, replace "and" with --or--.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: The prior art of record does not teach or render obvious **claims 1 and 18** as substantially set forth, especially in view of the inclusion of the instant component tripropylene glycol present at from 0.05 to 10 wt% and 3wt% (**claims 1 and 18** respectively). The closest prior art of record, Wenderoth et al. (WO 02/08354 A1, using US PGPub 2003/0164470 as English language equivalent) teaches a minimum glycol content of 75% (Wenderoth et al. [0095]). Claim 18 is openly readable on a mixture of components based on instant component i) 2.5 wt% of a mixture of p-toluenesulfonamide and 1H-1,2,4-triazole, based on instant component iii) 50 wt% distilled water, and based on instant monoethylene glycol, which results in a glycol content of far less than the 75% required by Wenderoth et al. However, it is noted that Kanai et al. (JP 0427960A) suggests that ethylene glycol,

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diethylene glycol, triethylene glycol, propylene glycol, dipropylene glycol and tripropylene glycol are substantial equivalents. Furthermore, regarding **claims 1, 5-12 and 16**, the closest prior art of record Wenderoth et al., while inviting the presence of higher glycols in the composition does not teach or suggest specifically including a minor amount of tripropylene glycol along with the alkylene glycol, glycerol or 1,3-propanediol concentrate base fluid. Wenderoth et al. in view of Ashikhmin et al. teaches the inclusion of a minor amount of triethyleneglycol only and neither teaches nor suggests the use of tripropylene glycol. Furthermore, Wenderoth in view of Kanai et al. teaches that the glycols used as the base fluids in the composition of Wenderoth could be replaced by the glycols equivalents taught by Kanai but neither teaches nor suggests the combination of the base glycol and a minor amount of tripropylene glycol.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANE L. STANLEY whose telephone number is (571)270-3870. The examiner can normally be reached on Monday-Thursday, 7:30 am - 5 pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/JLS/